IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1639 of 2005

Between:

M.B.Raju (E.310437), s/o Narsaiah,
Kamareddy Depot, A.P.S.R.T.C., Nizamabad District.

..... PETITIONER

AND

The Depot Manager, Andhra Pradesh State Road Transport Corporation, Armoor depot,
Nizamabad District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, especially one in the nature of writ of mandamus: i) call for the records pertains to I.D.No.2 of 1995, dt.02-03-1998 Labour Court-II, Hyderabad and hold that non-granting of continuity of service and back wages as bad and unsustainable in law. ii) consequently direct the respondent to treat the petitioner reinstatement made in terms of award passed in I.D.NO.2 of 1995 dated 02-03-1998 as with continuity of service and pay all the back wages and other attendant benefits iii) and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.K.VASUDEVA REDDY

Counsel for the Respondent: MR.V.T.M.PRASAD

The Court made the following:

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 1639 of 2005

ORDER:

This is a writ petition for issuing a writ in the nature of certiorari to call for the records pertaining to I.D.No.2 of 1995, dated 02-03-1998 on the file of Labour Court-II, Hyderabad, by declaring the action of the respondent in non-granting of continuity of service and backwages as bad and unsustainable in law.

2. Inasmuch as the commission of ticket and financial irregularities, a charge memo was issued to the petitioner. Where upon, the petitioner submitted his explanation. Dissatisfied with the explanation given by the petitioner, a regular departmental enquiry was ordered. Based on the findings of the Enquiry Officer's report, a show cause notice was issued to the petitioner calling for the explanation and since the explanation was not satisfactory, he was removed from service. Challenging the removal, the petitioner raised Industrial Dispute before the Labour Court-II, Hyderabad. The Labour Court-II, upon appreciation of evidence, ordered for reinstatement of the petitioner without backwages and continuity of service. Aggrieved by the same, the present writ petition is filed.

3. The learned counsel for the petitioner contended that the statements of the passengers were obtained by coercion of Ticket Travelling Inspectors, but, this aspect was not considered by the Labour Court-II and therefore, the Labour Court-II failed to give correct finding. Hence, he prays to set aside the same.

4. While exercising the certiorari jurisdiction, this Court is very much concerned with the findings given by the Court below. Except when the findings were not based upon any evidence or when the principles of natural justice have been violated, normally, this Court will not interfere with the findings.

5. The stand taken by the learned counsel for the petitioner is that the statements of the passengers were obtained with coercion. In this aspect, a

categorical finding has been given by the Labour Court-II that there is neither oral nor documentary evidence was adduced to support the stand taken by the learned counsel for the petitioner. Therefore, in my considered opinion, this finding is not shown to be as perverse or contrary to the evidence on record.

6. Further more, it is not a case of violation of principles of natural justice in not giving a reasonable opportunity to the petitioner in the departmental enquiry. It is a case where the petitioner issued used tickets of lesser denomination. The finding of the Labour Court-II is that the evidence of the passengers, remained unshattered. Based on the evidence adduced in the departmental enquiry, the Labour Court-II gave a finding that on consideration of the both oral and documentary evidence, the Enquiry Officer came to the right conclusion in holding that the petitioner was guilty under charge levelled against him. So, in my view the finding of the Labour Court-II is not shown to have been contrary to the evidence on record. Though it is a serious matter, where the petitioner is alleged to have issued the tickets of lesser denomination, the Labour Court-II took a lenient view with regard to the punishment.

7. While so, a challenge was made after lapse of seven years. But, no explanation was given for delay in filing the writ petition. Under these circumstances, this Court is of the considered opinion that the present writ petition is filed by way of speculation to get some relief though the punishment awarded by the disciplinary authority is not disproportionate to the proved mis-conduct, still the Labour Court-II took a lenient view and ordered for reinstatement. In the absence of any appeal to be preferred by the respondents within a reasonable time, this Court will not interfere with the punishment.

8. In the result, the writ petition is devoid of merit and is accordingly dismissed. No costs.

Kvr March 9, 2005

To

1. The Depot Manager, Andhra Pradesh

   State Road Transport
   Corporation, Armoor depot,
   Nizamabad District.

   2. 2 C.D copies.